

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

CREATE-A-PACK FOODS, INC.,

Plaintiff,

v.

Case No. 20-CV-499

**BATTERLICIOUS COOKIE
DOUGH COMPANY, CLAUDIA G.
LEVY and STEPHEN G. LEVY,**

Defendants.

ORDER

On February 17, 2021, this court issued an amended scheduling order requiring all dispositive motions be filed by October 15, 2021. (ECF No. 32.) Plaintiff Create-A-Pack Foods filed a motion for summary judgment on October 15, 2021. (ECF No. 33.) On October 21, 2021, the defendants requested an extension of time to file their response to Create-A-Pack Foods' October 15 motion for summary judgment. (ECF No. 38.) In making that request, the defendants also asked the court to allow their response to be combined with a cross motion for summary judgment. (ECF No. 38 at 1.)

The court granted defendants' request for an extension of time to file their response to Create-A-Pack Foods' motion for summary judgment (ECF No. 39) but

reserved ruling on the defendants' request to combine their response with a cross motion for summary judgment until it heard from Create-A-Pack Foods (ECF No. 42). The matter has now been fully briefed and is ready for resolution.

Create-A-Pack Foods argues that allowing the defendants to combine their response with a cross motion for summary judgment extends "the deadline for them to file a motion for summary judgment." (ECF No. 40 at 2.) Granting such an extension would be inappropriate, it argues, because the defendants filed their motion after the time for filing dispositive motions had expired and they have not demonstrated that they "failed to act because of excusable neglect" as Federal Rule of Civil Procedure 6(b)(ii) requires. (ECF No. 40 at 2 (citing Fed. R. Civ. P. 6(b)).) The defendants reply that allowing them to combine their response with a cross motion for summary judgment would allow for "the most efficient process." (ECF No. 43 at 3.)

Federal Rule of Civil Procedure 6(b) provides that this court may grant extensions of time for good cause. Fed. R. Civ. P. 6(b). "Judicial efficiency may constitute 'good cause' for an extension of time." *White v. Marshall*, No. 07-CV-892, 2009 WL 230096, at *2 (E.D. Wis. Jan. 30, 2009). Because the court agrees that allowing the defendants additional time to move for summary judgment may further judicial efficiency, the defendants' motion for an extension of time (ECF No. 38) is **GRANTED**.

IT IS THEREFORE ORDERED that the defendants must file their response to the plaintiff's motion for summary judgment, combined with their cross motion for

summary judgment, by no later than November 29, 2021. Plaintiff may respond and reply no later than January 5, 2022. The defendants may reply no later than January 19, 2022.

Dated at Milwaukee, Wisconsin this 17th day of November, 2021.


WILLIAM E. DUFFIN
U.S. Magistrate Judge